



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/749,318	12/31/2003	Scott R. Petersen	1001.1417102	1762
28075	7590	03/23/2006	EXAMINER	
CROMPTON, SEAGER & TUFTE, LLC 1221 NICOLLET AVENUE SUITE 800 MINNEAPOLIS, MN 55403-2420			BAXTER, JESSICA R	
			ART UNIT	PAPER NUMBER
			3733	

DATE MAILED: 03/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/749,318	PETERSEN, SCOTT R.	
	Examiner	Art Unit	
	Jessica R. Baxter	3733	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 33-64 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 33-64 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 33, 45, 46, 48 are rejected under 35 U.S.C. 102(e) as being anticipated by US PG-PUB 2002/0052626 to Gilson et al.

Gilson discloses a method of loading a filter into a delivery sheath adapted for use in delivering the filter (40) within the vasculature of a patient, the delivery sheath (2) having a proximal end, a distal end, and a lumen extending through at least a portion of the distal end, the distal end of the delivery sheath having an exterior surface, comprising the steps of: providing a loading tool (7) having a proximal end, a distal end, and a lumen extending therethrough; providing a filter (40) generally longitudinally fixed on an elongate member (43), the elongate member having proximal and distal portions, the filter connected to the distal portion; removing the filter, loading tool and delivery sheath from sterile packaging (paragraph 0201); coupling the loading tool to the delivery sheath; inserting the proximal end of the elongated member into the lumen of the loading tool and pulling the elongate member, causing the filter to move toward the proximal end of the loading tool and shift from an expanded configuration within the lumen of the loading tool to a collapsed configuration (FIGS. 59-62); and pulling the filter within the lumen of the delivery device

Art Unit: 3733

(paragraphs 0299-0302). The elongate member is pulled by pulling the wire (71) which in turn pulls the pulling device (150) which pulls on the elongate member (43, paragraph 0300). The proximal end of the filter is in the expanded configuration within the lumen of the loading tool (FIG. 60) and thus the filter shifts from an expanded configuration within the lumen of the loading tool to a collapsed configuration.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 34-38,41-44,47,49-53,56-64 are rejected under 35 U.S.C. 103(a) as being unpatentable over PG-PUB 2002/0052626 to Gilson et al. in view of U.S. Patent No. 6,132,458 to Staehle et al.

Gilson discloses the claimed invention except for the particulars of the funnel fitting around the end of the catheter. Staehly teaches an alternate way of connecting a funnel loader to the end of a catheter (FIGS. 1 and 2). Gilson teaches that a filter device may be loaded into a delivery sheath by a funnel device (FIGS. 22, 30, 31(a), 32(a), 57-64). The two funnel devices (Staehle and Gilson) are alternate funnel devices that may be used to load expandable vascular devices into a constricted state in order to be able to deliver them to a site within the vasculature. It would have been obvious to one having ordinary skill in the

Art Unit: 3733

art at the time the invention was made to load a filter into a delivery sheath by the loading tool of Staehle since it is known in the art to load the filter into a compressed state with a funnel device.

Staehle discloses a method of loading a device into a delivery sheath, comprising the steps of: providing a loading tool (10) having a proximal end, a distal end, and a lumen extending therethrough; coupling the loading tool to the delivery sheath; immediately prior to inserting the device within the vasculature, urging the device toward the proximal end of the loading tool, causing the device to shift from an expanded configuration to a collapsed configuration (FIGS. 1 and 2); urging the device within the lumen of the delivery sheath; wherein the step of coupling the loading tool to the delivery sheath is accomplished by fitting the loading tool over the exterior surface of the sheath (Column 3 lines 66-67); wherein the loading tool is coupled to the delivery sheath by a friction fit over the exterior surface of the delivery sheath (Column 3 lines 30-31); wherein the loading tool further comprises a first inside diameter region proximate the distal region thereof (diameter at 17); wherein the loading tool further comprises a second inside diameter region proximate the proximal end thereof (diameter of lumen between 16 and 19); wherein the inside diameter of the loading tool at the first outside diameter region is greater than the inside diameter of the loading tool at the second outside diameter region (FIGS. 1 and 2); wherein the loading tool further comprises a notched region (18) and a third inside diameter region (diameter at 16); wherein the inside diameter of the loading tool at the third inside diameter region and the outside diameter of the delivery sheath are substantially equal (FIG. 1); wherein the inside diameter of the loading tool at the second inside diameter region and the inside diameter of the delivery sheath are substantially equal (FIG. 1); further comprising the step of

Art Unit: 3733

uncoupling the loading tool from the delivery sheath (Column 3 lines 8-10); wherein the step of uncoupling the loading tool from the delivery sheath results in the device being appropriately prepared for entry into a blood vessel (Column 3 lines 8-10); wherein the device is configured to be disposed within the distal end of the loading tool lumen in an expanded position (FIGS. 1 and 2); and wherein the step of urging the device toward the proximal end of the loading tool is performed after the step of coupling the loading tool to the delivery sheath.

3. Claims 39, 40, 54, and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gilson et al. '626 in view of Staehle et al. '458.

Gilson, as modified, discloses the claimed invention except for the size of the inside diameter of the first and second outside diameter regions. It would have been obvious matter of design choice to change the size of the diameters, since such a modification would have involved a mere change in the size of a component. The sizes that are claimed appear to be within the range of known filter delivery devices. A change in size is generally recognized as being within the level of ordinary skill in the art.

Response to Arguments

4. Applicant's arguments with respect to claims 33-64 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jessica R. Baxter whose telephone number is 571-272-4691. The examiner can normally be reached on M-F 8:30AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eduardo Robert can be reached on 571-272-4719. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3733

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



rb

Jessica R Baxter
Examiner
Art Unit 3733



EDUARDO G. ROBERT
SUPERVISORY PATENT EXAMINER